



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801

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Preston Bryant  
Secretary of Natural Resources

David K. Paylor  
Director

R. Bradley Chewning, P.E.  
Regional Director

## STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION

### ORDER BY CONSENT ISSUED TO

**O-N Minerals (Chemstone) Company – Strasburg**  
**Registration #: 80252**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1187, -1184, -1307(D), -1309, and -1316(C), between the State Air Pollution Control Board and O-N Minerals Company, for the purpose of resolving certain alleged violations of environmental law and regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order, and incorporates the additional terms and conditions as set out in Appendix A to this document.

6. “O-N Minerals” means O-N Minerals (Chemstone) Company - Strasburg, a Virginia Company which owns and operates a limestone crushing and processing facility.
7. “Facility” means O-N Minerals’ limestone crushing and processing facility located at 1696 Oranda Road, Strasburg, Virginia 22657.
8. “VRO” means the Valley Regional Office of DEQ, located at 4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801.
9. “The Permit” means O-N Minerals’ Virginia Title V Operating Permit, dated July 30, 2002.

**SECTION C: Findings of Facts and Conclusions of Law**

1. O-N Minerals is the owner and operator of the Facility, which is the subject of a Notice of Violation (NOV) issued on September 14, 2007.
2. Condition V.D.2 of O-N Minerals’ Permit states: Once each permit term, at a frequency not to exceed five years, a performance test shall be conducted for particulate matter (PM) on the hydrator (U10) using EPA Method 5 (40 CFR Part 60, Appendix A) or other DEQ approved method. The test shall be performed, and demonstrate compliance with the standard according to Condition V.A.3. The test shall be conducted and reported and data reduced as set forth in 9 VAC 5-50-30. The Permittee shall submit a test protocol at least 30 days prior to testing. Two copies of the test results shall be submitted to the Director, Valley Region, within 60 days after test completion and shall conform to the test report format enclosed with this permit. (9 VAC 5-50-30 and 9 VAC 5-80-110)
3. Testing required by Condition V.D.2 of the Permit was conducted on June 13, 2007, within the timeframe specified in the Permit. On August 13, 2007, DEQ received the results of O-N Minerals’ Emission Test Report for Filterable Particulate Matter Emissions for the hydrator at the Strasburg facility. The report was submitted after a meeting between O-N Minerals and DEQ on July 24, 2007. During the meeting, O-N Minerals reported Method 5 test results of 2.45 lb/hr, which exceeds the permit limit of 1.0 lb/hr.
4. Condition V.A.3 of O-N Minerals’ Permit states that particulate emissions from the operation of the atmosphere hydrator (U10) shall not exceed the following limitations: 1.0 lb/hr and 4.4 tons/yr.
5. O-N Minerals’ Permit expired on July 30, 2007, and has not been reissued.
6. O-N Minerals completed the testing required by Condition V.D.2 of the Permit within specified timeframes. In the meeting on July 24, 2007, and in subsequent written correspondence, O-N Minerals asserted that the test results did not provide an accurate representation of emissions from the hydrator based on unique properties of the process and emissions point. In a letter from Department to O-N

Minerals dated September 14, 2007, Department concurred that, while Method 5 is the most appropriate filterable particulate matter test method for the source, there was reasonable evidence that the measured test results were not representative of actual PM emissions from the hydrator. O-N Minerals responded to the NOV in a timely manner, and in electronic mail communication on October 29, 2007, expressed its intent to cooperatively resolve the testing ambiguities referenced in item C.4. above. Since O-N Minerals was unable to demonstrate compliance with Condition V.A.3 of the Permit within specified timeframes, this Order provides a plan and schedule for O-N Minerals to return to compliance, including an appropriate civil charge for an extended compliance deadline.

#### **SECTION D: Agreement and Order**

By virtue of the authority granted State Air Pollution Control Board pursuant to Va. Code §§ 10.1-1186(2), 10.1-1309, and 10.1-1316(C), orders O-N Minerals, and O-N Minerals voluntarily agrees to the following conditions in settlement of the violations cited in this Order:

1. O-N Minerals agrees to a civil charge of **\$3,107.00** in settlement of the violations cited in this Order. Payment must indicate that the civil charge is paid pursuant to this Order, and shall include O-N Minerals' Federal Identification Number. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of the Commonwealth of Virginia" and sent to Receipts Control, Department of Environmental Quality, Post Office Box 1104, Richmond, Virginia 23218.
2. O-N Minerals shall comply with the terms and conditions as set out in Appendix A of this Order.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of O-N Minerals, for good cause shown by O-N Minerals, or on its own motion after notice to O-N Minerals and its opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order only, O-N Minerals admits the jurisdictional allegations in the Order. However, by entering into this Consent Order, O-N Minerals does not admit any liability to the Board arising out of the transactions or occurrences alleged by the Board, nor does it admit to any of the Board's findings of fact and conclusions of law. Nothing in the allegations, the proposed penalties, this Consent Order, or the signing, execution, or implementation of this Consent Order constitutes an admission by O-N Minerals or evidence of, or shall be treated as an admission or evidence of, any allegation or of any

violation of the statute and regulations referred to herein, in any litigation or forum whatsoever.

4. O-N Minerals consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. O-N Minerals declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right of O-N Minerals to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by O-N Minerals to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. O-N Minerals shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. O-N Minerals shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. O-N Minerals shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. The reasons for the delay or noncompliance;
  - b. The projected duration of any such delay or noncompliance;
  - c. The measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. The timetable by which such measures will be implemented and the date full compliance will be achieved.

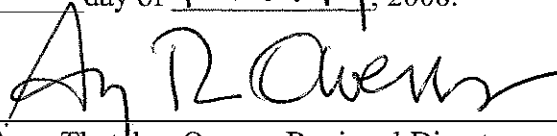
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which O-N Minerals intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

10. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
11. This Order shall become effective upon execution by both the Director or his designee and O-N Minerals. Notwithstanding the foregoing, O-N Minerals agrees to be bound by any compliance date which precedes the effective date of this Order.
12. This Order shall continue in effect until:
  - a. O-N Minerals petitions the Director or his designee to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order; or
  - b. The Director or the Board may terminate this Order in his or its whole discretion upon 30 days' written notice to O-N Minerals.

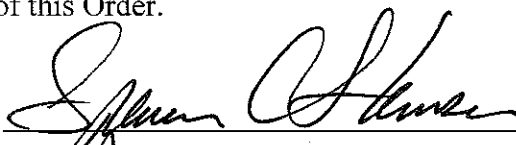
Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve O-N Minerals from his obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By appropriate signature below, O-N Minerals voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 18 day of February, 2008.

  
Amy Thatcher Owens, Regional Director  
Valley Regional Office  
Department of Environmental Quality

O-N Minerals voluntarily agrees to the issuance of this Order.

By:   
Date: January 29, 2008

Commonwealth of Virginia

City/County of Shenandoah

The foregoing document was signed and acknowledged before me this 29<sup>th</sup> day of January, 2008, by Spencer Stinson, who is

(name)

General Manager of O-N Minerals, on behalf of O-N Minerals.  
(title)

Judy A. Wayner  
Notary Public

My commission expires: 12/31/2008.

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## APPENDIX A

In addition to the foregoing, the Virginia State Air Pollution Control Board orders O-N Minerals, and O-N Minerals agrees to implement this corrective action plan as an additional provision to this Order:

1. Pursuant to Condition V.D.2 of the Permit, repeat performance tests shall be conducted for particulate matter (PM) on the hydrator (U10) using EPA Method 5 (40 CFR Part 60, Appendix A) or other DEQ approved method. The tests shall be performed no later than February 29, 2008. Tests shall be conducted and reported and data reduced as set forth in 9 VAC 5-50-30. The details of the tests are to be arranged with the Air Compliance Manager, Valley Regional Office. The Permittee shall submit a test protocol prior to testing. One copy of the test results shall be submitted to the Air Compliance Manager, Valley Regional Office, within **30 days** after test completion and shall conform to the test report format provided in the Permit (9 VAC 5-50-30 and 9 VAC 5-80-110).
2. Valid results from the testing may be used to modify the limit for particulate matter stated in Condition V.A.3 of O-N Minerals' Permit. Physical or operational modifications made during testing may also be required by the Permit to ensure future compliance with applicable limits. Should DEQ and O-N Minerals determine that a modification to the Permit is appropriate; O-N Minerals shall submit a Form 7 Air Permit Application within a reasonable timeframe specified by DEQ.
3. O-N Minerals shall submit a revised Form 805 to update the compliance certification in its Title V permit application within 15 days of the effective date of this Order. The compliance certification shall include Conditions 1 and 2 of this Appendix, which will be incorporated as a compliance plan in the reissued Title V permit.